

REMARKS

I. Status of the Claims

Claims 31-65 and 83-97 are pending in this application. Claims 1-30 and 66-82 have been cancelled. Claims 31, 37, 43, 48, 54, and 60 are in independent form. Claims 93 to 97 are new claims. All of the independent claims have been amended to recite that the consumer, rather than a generic “user” controls the process or uses the system. This feature is supported in the specification at page 5, lines 24-30; page 6, lines 11-14; and page 9, lines 18-22, and is an important aspect of the e-commerce application of the claimed invention. In addition, claims 31, 37 and 43 have been amended to better define the scope of the system and process claimed, e.g., the system claimed does not include the consumer’s computer, but enables the consumer’s computer to communicate image data over a network for printing on the sugar shelled candy or jelly bean. New claims 93-97 recite an image processor and method steps whereby the consumer can modify the image and preview options for the printed, personalized candy. This limitation was introduced into the independent claims in applicant’s last response, but the Examiner’s rejection was maintained and made final on the grounds set forth below.

II. Rejections Over Prior Art

All of the pending claims have been rejected over U.S. Patent No. 6,230,073 (hereinafter “Kofman”) in view of U.S. Patent No. 6,538,767 (hereinafter “Over”), which is the sole grounds of rejection.

III. Argument

A. Kofman and Over Do Not Disclose a System Controlled by a Consumer

The essence of the “business method” embodied in the present claims is that the process or system is used by a consumer. As stated in the Summary of the Invention: “[t]he input of the consumer is a key component of the customizable process.” (Page 5, lines 24-25). In the cited prior art, the manufacturer controls the printing of a personalized product. Prior to applicant’s invention, processes whereby a consumer could submit images over a network to have customized images printed on, for example, M&M’s® Peanut and Chocolate candies were unknown.

Kofman is directed to an operation where printing is controlled by an operator, such that the end result is simply “a method of automatically operating a production line for preparing a food item” (column 3, lines 44 to 45). For example, describing printing an image on a chocolate item, Kofman says that “the operator scans an image 4 to be printed” (column 4, line 36 to 37; emphasis added). The system described in Kofman is not designed so that the consumer controls or interacts with it in any way.

This aspect of the invention, critical to the e-commerce implementation, has been ignored in the Office Action.

Over does not remedy the deficiencies of Kofman. Over is principally concerned with the special difficulties relating to printing on spherical or semi-spherical objects, such as golf balls (column 1, lines 9 to 13). The purported advantages described in Over relate to a system for controlling the transmission of data to a print head which is moved relative to the substrate (column 2, line 58 to column 3, line 6). Although Over makes incidental reference to “customers,” there is no disclosure whereby information

entered by the customer at one location is transmitted to a computer to print finished confectionery products in an e-commerce application.

Note further that dependent claims 88 through 92 recite that the sugar shell candy or jellybean is printed with a personalized message. To the extent that Over discloses involvement of a “customer,” it is not in the context disclosed in the present application -- i.e., Over does not contemplate plural consumers of the products each being involved in the design of their own personalized products over a network.

For the foregoing reasons, the combination of Kofman and Over does not render obvious the claimed invention, whereby a consumer is able to interactively submit design graphics for custom printing on sugar shell candies or jellybeans.

B. Kofman and Over Do Not Disclose a System Whereby Confectionery Items are Serially Conveyed Past a Printhead

Claims 83 to 87 are directed to the above described e-commerce technique with a printing subsystem feature in which sugar shell candies or jellybeans are printed by being held transiently in place as they are serially transported past a printhead. The Office Action incorrectly maintains that a conveyor for transporting sugar shell candies is shown in Fig. 12 of Over (Office Action page 4). To the contrary, Fig. 12 of Over is merely a schematic (block diagram) of an ink jet unit and does not depict a conveyor of any type. To the extent that Over discloses any type of tool for supporting the object printed on, the reference discloses control unit 60, with spin bottom 61(A) and top 61(B), etc. (see column 9, line 49 to column 10, line 31). The control unit 60 is clearly not a conveyor holding a plurality of confectionery items and transporting each of them past a printhead while holding them transiently in place.

The distinction with regards to the conveyor is important, and therefore applicants separately argue the patentability of claims 83 to 87. While it may have been known, as of the June, 2000 filing date of the present application, to network a printer with a computer, it was not obvious as of that date that a consumer's computer could be connected over a network with a printer capable of conveying and serially printing jellybeans or M&M's® Peanut and Chocolate Candies, for example, as recited in the present claims, with the result that individual consumers might interactively configure and obtain personalized confectionery items using a high throughput printing and conveying system.

In fact, Over teaches away from the presently claimed invention whereby non-planar sugar shell candies or jelly beans are printed on while transported past a print head. Over clearly teaches a technique in which the non-planar object is held in a fixture and the ink jet head is moved relatively to the substrate to maintain a desired distance from the subject. In contrast, the non-planar substrate on a conveyor according to the present invention presents a variable distance from the printing surface to the printhead. Thus, it is respectfully submitted that a person of ordinary skill, reading Over, would never have contemplated that sugar shell candies or jelly beans could be simply serially transported past a print head and obtain a high quality printed image, i.e., an image resolution greater than 200 DPI.


C. Kofman and Over Do Not Disclose a System Whereby Consumers
Can Interactively Submit, Select, Preview and Modify Images to be
Printed on Confectionery

For the reasons set forth in response to the previous Office Action, applicants reiterate that Kofman and Over, taken alone or together, do not describe a system that permits a consumer to interactively submit, select, preview and modify images prior to having them printed on a confectionery item.

Applicant's My M&M's® e-commerce application is a pioneer entry into the e-commerce field in which this functionality is demonstrated, and prior to the filing date of the present application, such applications were not known.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should be directed to our address given below.

Respectfully submitted,


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